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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,704	10/05/2001	Mickey W. Calvert	53394.000530	3083

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EXAMINER

CHAN, SING P

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

LN

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/970,704	CALVERT, MICKEY W.
	Examiner Sing P Chan	Art Unit 1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) 30 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-29 is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 688

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_

## DETAILED ACTION

### ***Claim Objections***

1. Claim 9 is objected to because of the following informalities: the claim recites "tissue later" on line 3 and should be "tissue layer." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNichols et al (U.S. 6,149,755) in view of Rajala et al (U.S. 5,643,396).

Regarding claims 1, 2, 26, and 27, McNichols et al discloses an apparatus for applying part for articles such as diaper and napkins. The apparatus includes a combination roller, i.e. an applicator (Col 10, lines 31-57), a motor to rotate the applicator, a controller to control the rotational speed of the motor (Col 10, lines 59-61 and Col 11, lines 56-67), wherein the applicator pickup an article part at the first position at the first speed and deposition the part onto a moving web, i.e. a target, at the second position at a second speed. (Col 16, lines 4-23) McNichols et al does not disclose one or more heads on fixed-length arm. However, using one or more heads on fixed-length arm is well known and conventional as shown for example by Rajala et al. Rajala et al discloses an apparatus for constructing a disposable garment. The apparatus includes one or more shell segments with a transport head and a wall, i.e. fixed-length arm,

extending perpendicularly from the transport head to transfer the parts for the garment.  
(Col 37, line 65 to Col 38, line 1 and Figures 32, 33, 35, 36, 39, 41, and 47)

It would have been obvious to one skilled in the art at the time the invention was made to provide one or more fixed-length arms with transport heads as disclosed by Rajala et al in the apparatus of McNichols et al to provide an applicator with a lower mass to allow the applicator to be more easily rotated by a servomotor and placement of the parts on the moving web with precision.

Regarding claim 3, McNichols et al discloses the part is gripped with vacuum.  
(Col 10, lines 31-36)

Regarding claims 6, 7, 28, and 29, McNichols et al discloses the applicator is driven with servomotor, programmable controller, and gear box, which is considered to be an AC servomotor and drive.

Regarding claims 8-14, McNichols et al discloses the applicator for applying parts for article such as diapers and feminine napkins (Col 1, lines 18-29) and is considered capable of pick up, convey, and deposit the parts such as absorbent core, tissue layer, garment chassis, and grip tabs onto a moving web.

Regarding claims 15-21, McNichols et al discloses the applicator is operated with the first speed slower than the second speed (Col 12, lines 20-32) and is considered to be capable of being operated at the recited speeds.

Regarding claim 23, McNichols et al discloses a cutting anvil bar on the applicator. (Col 11, lines 40-42 and Figures 1 and 19)

Regarding claim 22, McNichols et al discloses the applicator can be operated with first speed is faster than the second speed. (Col 12, lines 33-42)

Regarding claims 24 and 25, McNichols et al discloses ultrasonic bonding anvil shoes on the applicator for bonding the parts to the web. (Col 5, lines 24-34 and Col 10, lines 44-57)

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNichols et al (U.S. 6,149,755) in view of Rajala et al (U.S. 5,643,396) as applied to claim 1 above, and further in view of Killian (U.S. 5,850,711).

McNichols et al as modified above does not disclose mechanical gripping device or combination of gripping devices. However, using mechanical or combination of vacuum and mechanical gripping device is well known and conventional as shown for example by Killian. Killian discloses a component applicator, which includes any mechanical or combination of vacuum and mechanical gripping devices. (Col 8, lines 4-47)

It would have been obvious to one skilled in the art at the time invention was made to provide any mechanical or combination of vacuum and mechanical gripping devices as disclosed by Killian in the apparatus of McNichols et al to allow proper and secured gripping of any parts of the absorbent article reliably.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P Chan whose telephone number is 703-305-3175. The examiner can normally be reached on Monday-Friday 7:30AM-12:00PM and 1:00PM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

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872-9310 for regular communications and 703-872-9311 for After Final  
communications.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the receptionist whose telephone number is 703-308-  
0661.

*Chan Sing P*  
Sing P Chan  
Examiner  
Art Unit 1734

spc  
April 25, 2003

*R. Crispino*

RICHARD CRISPINO  
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